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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/591,009	06/09/2000	Ashok K. Shukla		3502

7590

11/07/2002

Ashok K. Shulka
10316 Kingsway Court
Ellicott City, MD 21042

EXAMINER

THERKORN, ERNEST G

ART UNIT

PAPER NUMBER

1723

20

DATE MAILED: 11/07/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/591,009

Applicant(s)

Shukla

Examiner

THERKORN

Art Unit

1733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED Oct 18, 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☒ The period for reply expires 2 months from the mailing date of the ~~final rejection~~ Notice of Appeal
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on Oct 18, 2002. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☒ they raise the issue of new matter (see NOTE below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: "said chromatographic particles are larger than the perforation" raises new issues requiring further search and consideration.

3. ☐ Applicant's reply has overcome the following rejection(s):
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because:

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: NONE

Claim(s) objected to: NONE

Claim(s) rejected: 1, 2, 4, 5, 7-11, 13-16, and 20

Claim(s) withdrawn from consideration: NONE

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

10. ☒ Other: See attached sheet for the request for reconsideration of entry of the amendment.

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The remarks of October 17, 2002 requests reconsideration entry of the amendment of September 18, 2002. The Manual of Patent Examining Procedure (MPEP) section 712.13 governs the procedure to be followed regarding an amendment filed after final rejection. See also MPEP 1207 (governing amendments filed with or after appeal), and MPEP 1208.01 (prohibiting entry of new ground of rejection in an examiner's answer). MPEP 712.13 states in pertinent part that "[a]n amendment filed at any time after final rejection, but before an appeal brief is filed, may be entered upon or after filing of an appeal brief provided the total effect of the amendment is to (A) remove issues for appeal, and/or (B) adopt examiner suggestions." MPEP 712.13 further indicates that "[t]he proposed amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified.

Ordinarily, the specific deficiencies of the amendment need not be discussed. The reasons for nonentry should be concisely expressed. For example:

...

(B) The claims, if amended as proposed, would raise the issue of new matter.

© The claims as amended present new issues requiring further consideration or search...."

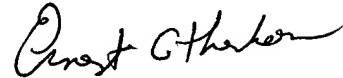
For the reasons sets forth in the prior advisory action, the proposed amendment raises new issues and thus does not remove issues for appeal or adopt examiner suggestions. Accordingly, non-entry of the amendment of September 18, 2002 is considered to be proper.

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Any inquiry concerning this communication should be directed to E. Therkorn at
telephone number (703) 308-0362.



Ernest G. Therkorn
Primary Examiner
Art Unit 1723

EGT/12
November 6, 2002